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HUMAN RIGHTS COMMITTEE

DOCUMENT SUBMITTED BY THE GOVERNMENT OF SENEGAL RELATING TO THE FINAL COMMENTS ADOPTED BY THE HUMAN RIGHTS COMMITTEE FOLLOWING THE CONSIDERATION OF THE THIRD PERIODIC REPORT OF SENEGAL*

Introduction

1. The Ministry of Foreign Affairs of the Republic of Senegal presents its compliments to the Secretary-General of the United Nations, and thanks the Human Rights Committee for having kindly forwarded its written comments on the Government's third periodic report concerning the implementation of the International Covenant on Civil and Political Rights.

2. Further to those comments, it has the following additional and complementary remarks to make:

3. First of all, the Government of Senegal notes with satisfaction that the submission of the third periodic report to the Human Rights Committee enabled the Committee to make a realistic assessment of the human rights situation in Senegal.

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* The third periodic report of Senegal was considered at the forty-sixth session of the Committee (1179th to 1181st meetings, held on 20 and 24 October 1992). The final comments of the Committee are contained in document CCPR/C/79/Add.10.

I. POSITIVE ASPECTS

4. The Government of Senegal is gratified that the Committee has noted with satisfaction the progress achieved in the implementation of the International Covenant on Civil and Political Rights in Senegal. Among the positive new measures taken to strengthen the protection of human rights, the Committee remarked particularly on the adoption of new legislatism more in keeping with the Covenant, the reorganization of the judicial system through the establishment of a Constitutional Council, a Council of State and a Court of Cassation, the appointment of a Mediator of the Republic, and the abolition of the State Security Court.

5. The Committee also took note of the adoption of a new Electoral Code which will make it possible to hold open and reliable elections and for certain provisions of the Covenant to be applied for the first time by the Senegalese courts.

6. Lastly, it noted with satisfaction the detailed study by the Government of Senegal of the comments and recommendations made by the Committee during its consideration of the second periodic report of Senegal in 1987.

II. FACTORS AND DIFFICULTIES IMPEDING THE IMPLEMENTATION OF THE COVENANT

7. The Government of Senegal has noted with some surprise the Committee's comments concerning a supposed proclamation of a state of emergency in southern Senegal (Casamance), said to have given rise to the non-observance of several rights set forth in the Covenant. It also noted the Committee's concern at the inertia of the Government of Senegal when investigations should have been carried out, at the appropriate time, under the terms of articles 7 and 9 of the Covenant, into allegations of ill-treatment of prisoners, torture and extrajudicial executions.

8. Other points of concern to the Committee related to the adaptation of domestic law to international instruments, the presence in the Penal Code of the death penalty for minors (art. 52), police custody lasting in some cases for eight days, without the possibility of having the assistance of a lawyer, non-notification of the proclamation of states of emergency to the Secretary-General of the United Nations, and cases of discrimination against women in certain respects. With regard to those cases, the Committee made suggestions and recommendations to the Senegalese Government, which also took due note of the recommendation relating to the training of members of the police and security agents in the human rights field.

A. THE CASAMANCE REGION AND A SUPPOSED PROCLAMATION OF A STATE OF EMERGENCY

9. The Government of the Republic of Senegal states categorically that a state of emergency has never been proclaimed in this part of Senegal since the incidents started.

10. It should be pointed out that, following the Cacheu (Guinea-Bissau) agreement between the Governments of Senegal and Guinea-Bissau and the Movement des Forces démocratiques de Casamance (MFDC) in May 1991, the

Government of Senegal, after granting a full amnesty for all crimes and offences committed since the start of the 1982 incidents, decided to withdraw from the area all the military and paramilitary forces responsible for keeping order. It then initiated a dialogue with the MFDC, and set up machinery for consultation at the national and local level with a view to achieving a lasting peace. Some 18 months after the withdrawal of the forces of law and order, uncontrolled elements of the MFDC began to attack the civilian population, who had no defence against these murderous attacks. This is why the Government went back on its decision to withdraw those forces and it did so to restore order in the region. But that was neither preceded nor followed by any proclamation of a state of emergency or siege. Since then, therefore, the people have been going about their daily business.

11. It should be noted in this connection that a state of emergency and a state of siege are provided for under article 58 of the Constitution of Senegal, which stipulates that they may be proclaimed only by a decree issued by the President of the Republic. The last such decree (No. 89/526 of 28 April 1989) was issued in connection with the incidents between Senegal and Mauritania in 1989. In any event, that decree limited the area covered by the state of emergency to the Dakar region only, and it came to an end on 20 May 1989. On this point, therefore, the Government can state categorically that, since 19 May 1989, there has been no state of emergency in Senegal.

12. Also with respect to the events in Casamance, the Government is still willing, committed as it is to peace and tolerance, to engage in a dialogue with all the sons of that region. This policy is irreversible so far as the Government is concerned.

B. INVESTIGATIONS INTO THE ACCUSATIONS OF TORTURE AND EXTRAJUDICIAL EXECUTIONS

13. With regard to the investigations held following the accusations of torture and extrajudicial executions, it must be pointed out that the Amnesty Act of 10 July 1991 wiped out all offences committed in connection with the so-called "Casamance" incidents between 1 August 1987 and 1 July 1991 (art. 1 of the Act); this applies both to the rebels and to the members of the security forces. As the criminal nature of the acts covered by the Amnesty Act has disappeared, no judicial proceedings can be instituted against those who committed them.

C. ADAPTATION OF SENEGALESE DOMESTIC LAW TO THE INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS

14. It should be noted in this connection that the Head of State has given instructions to the Minister of Justice to take all necessary steps to adapt domestic law to the legal instruments on human rights to which Senegal is a party. Since these presidential directives, a number of think tanks have been set up in the ministerial departments concerned with their implementation.

D. APPLICATION OF THE DEATH PENALTY TO MINORS

15. This relates to article 52 of Senegal's Penal Code, under which youth is admitted as a ground for mitigation of sentence. Under this provision, where

a minor, having been found guilty of a crime, is liable to the death sentence, the Assize Court must apply this article of the Penal Code so as to commute the sentence and, above all, so as to avoid passing the death sentence on a minor. This explanation is worth bringing to the attention of the Committee in order to allay its fears with respect to this article of the Penal Code.

E. DURATION OF POLICE CUSTODY AND ASSISTANCE OF A LAWYER AT THAT STAGE

16. One point of concern also relates to the duration of police custody, which in some cases can last eight days without the suspect being able to secure the assistance of a lawyer. In this connection, it should be noted that police custody for a duration of eight days is provided for in the case of certain categories of particularly serious offences against State security.

F. IMPLEMENTATION BY SENEGAL OF ARTICLE 4 OF THE COVENANT RELATING TO THE NOTIFICATION OF STATES OF EMERGENCY TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

17. The Committee expressed the wish that Senegal should comply with the relevant provisions of Article 4 of the Covenant concerning the notification of states of emergency to the Secretary-General of the United Nations. The representative of Senegal to the Committee took due note, when the third report was presented, of that important recommendation for the future.

G. CASES OF DISCRIMINATION AGAINST WOMEN IN CERTAIN RESPECTS

18. Senegal is one of the rare countries to have introduced a genuine policy for the advancement of women, which militates in favour of equality between the sexes. The rare cases of discrimination to be noted nowadays relate mainly to the access of women to certain branches of the armed forces (fire brigade, gendarmerie). Women have, however, already been admitted to the police force.

19. It also seems that there are increasing calls everywhere for the elimination of the few pockets of resistance that stand in the way of the advancement of women in Senegal.

H. ORGANIZATION OF TRAINING FOR MEMBERS OF THE POLICE, MILITARY PERSONNEL AND SECURITY AGENTS IN THE HUMAN RIGHTS FIELD

20. This important and interesting recommendation by the Committee received the Senegalese delegation's closest attention when the third periodic report was presented. The delegation made a report to the competent authorities, which found it interesting. Certainly such training given at that level will have the effect of making the fundamental norms and principles of human rights and the laws designed to protect them familiar.

21. In conclusion, it must be noted that the Republic of Senegal has but one aspiration, namely, to honour its sovereignly assumed international commitments.